



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,221	03/05/2001	Carlos Van Alboom	M0459/7019 (DW)	9698

23628 7590 06/04/2003

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,221

Applicant(s)

ALBOOM ET AL.

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) 3, 4, and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>9</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Response to Amendment

1. Amendment B, submitted as Paper No. 11 on January 14, 2003, has been entered. The specification has been amended as requested.

Terminal Disclaimer

2. The terminal disclaimer filed on January 14, 2003, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,247,215 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for minimizing creasing by washing the flock fabric at a temperature of at least 40°C and by the use of a sizing agent, does not reasonably provide enablement for “processing greige goods to randomly reorient the fibers forming the flocked surface under conditions selected to minimize creasing of the fabric.” The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

Art Unit: 1771

Claim 21 limits the process of forming a printed multicolored flocked pile fabric to include the step of “processing greige goods to randomly reorient the fibers forming the flocked surface under conditions selected to minimize creasing of the fabric.” This limitation is deemed broader in scope than the present disclosure in that it encompasses any and all conditions that would minimize creasing. [Note Amendment B, page 4, lines 2-4 of 3rd paragraph] However, the specification only teaches two conditions which minimize creasing. Specifically, the specification teaches washing the fabric at a temperature of at least 40°C “in order to minimize the creasing” and the use of a desizing agent, “which further assists in minimizing the likelihood of creases forming” (page 6, lines 13-14 and 18-20). Thus, the specification does not provide enablement for one of ordinary skill in the art that is reasonably commensurate in scope with the degree of protection sought by the present claim. There is absolutely no teaching or suggestion in the specification that conditions other than the wash temperature and the use of a desizing agent would minimize creasing.

5. Claims 1, 2, 5-12, and 14-21 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for flock fiber reorientation by washing said fabric at alternately high and low temperatures between the range of 20-90°C at a dwell time of 1-4 hours (specification, page 6, line 3-page 7, line 13), does not reasonably provide enablement for “under conditions sufficient to enable a liquid to which the greige goods are exposed to reorient fibers” (claim 1), “under conditions sufficient to reorient fibers” (claims 14 and 20), or “washing greige goods at a temperature and time period sufficient to randomly reorient the fibers” (claim 21). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

These limitations are broader in scope than the disclosure of the invention, which only teaches the 'sufficient conditions' to be washing the greige goods at alternately low and high temperatures falling within the range of 20-90°C and a dwell time of 1-4 hours. Thus, the specification does not provide enablement for one of ordinary skill in the art that is reasonably commensurate in scope with the degree of protection sought by the present claim. There is absolutely no teaching or suggestion in the specification that conditions other than the wash temperature and dwell time would reorient the fibers as claimed.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 1, 2, 5-12, 14, and 17-19 stand rejected under 35 USC 103(a) as being unpatentable over US 3,922,404 issued to Priester in view of EP 581 514 issued to McMulloch, as set forth in section 8 of the last Office Action.
8. Claims 15, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Priester and McMulloch references, and in further view of US 3,681,946 issued to Fleissner.

With respect to claims 15, 16, and 20 which limit the method to further include the step of forming the greige goods fabric into an elongated tubular shape (i.e., a continuous loop made by stitching together the selvages of the fabric) before washing, it is noted Priester teaches cutting a continuous length of flocked fabric into lengths of 50 yards or more for further handling and processing such as dyeing in a beck or the like (col. 2, lines 62-65). However, Priester lacks

Art Unit: 1771

an explicit teaching of how the 50 yards of fabric are formed for processing in the beck. It is well known in the art that piece or batch dyeing of fabrics in a beck dyeing machine are formed into either a rope or tube shape. For example, Fleissner teaches an improved apparatus for dyeing ropes, tubes, or open-width fabrics (col. 2, lines 15-20 and 28-30). Thus, it would have been obvious to one of ordinary skill in the art to dye or further process the cut 50 yard fabrics of Priester while in either rope, tube, or open-width form, since the prior art teaches these forms are art recognized equivalents. Therefore, claims 15, 16, and 20 are rejected as being obvious over the cited prior art.

Response to Arguments

9. Applicant's arguments filed with Amendment B have been fully considered but they are not persuasive. Specifically, Applicant traverses the above 103 rejection of the claims by asserting "Priester does not disclose or suggest washing greige goods under conditions sufficient to enable a liquid to which the greige goods are exposed to reorient fibers... nor does he teach reorienting the fibers with the liquid from an essentially uniform parallel orientation into random groups of fibers" (Amendment B, sentence spanning pages 6-7). Applicant notes that the Patent Office agrees that Priester's method of forming randomly oriented pile "comprises the step of dyeing or wetting the fabric in a Beck or other dyeing machine, followed by the steps of removing the wetted fabric from the machine and balling up and crushing the fabric...to crush and reorient the pile" (Amendment B, page 7, lines 4-8).

10. In response, it is first noted that Applicant's arguments are not commensurate in scope with the present claims. In particular, it is asserted that Priester's step of dyeing or wetting the

Art Unit: 1771

fabric will inherently reorient the fibers from an upstanding parallel position to an angular position in that any liquid flow will be 'sufficient conditions' to move the flock fibers into a new orientation. Said reorientation from dyeing or wetting may or may not necessarily be a permanent reorientation. However, Applicant's claims do not exclude such a situation in that said claims are method claims which do not limit the structure of the final printed flocked pile fabric to having said reoriented flock fibers. Secondly, it is noted that Applicant's claims are open language claims (i.e., comprising). Hence, the present method claims do not exclude the presence of other steps, such as Priester's balling up and crushing step. Thus, Applicant's arguments are unpersuasive and the above 103 rejection is maintained.

Allowable Subject Matter

11. Claims 3, 4, and 13 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach a method of making a printed flocked fabric comprising the steps of washing the fabric at alternately low and high temperatures within the range of 20-90°C to reorient said flock fibers into random groups, drying the fabric, and printing said fabric.


Conclusion

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

Art Unit: 1771

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL A. JUSKA
PRIMARY EXAMINER